Commission Implementing Regulation (EU) 2020/2163 of 18 December 2020 on the implementation in the United Kingdom in respect of Northern Ireland of the rules of origin laid down in Union preferential trade arrangements

COMMISSION IMPLEMENTING REGULATION (EU) 2020/2163

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code[(1)], and in particular Article 66(a) thereof,

Whereas:

(1) The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ('the Withdrawal Agreement') was concluded on behalf of the Union by Council Decision (EU) 2020/135[(2)] and entered into force on 1 February 2020.

(2) Article 4 of the Protocol on Ireland/Northern Ireland annexed to the Withdrawal Agreement ('the Protocol') reiterates that Northern Ireland is part of the customs territory of the United Kingdom, and that nothing in the Protocol prevents the United Kingdom from including Northern Ireland in the territorial scope of its Schedules of Concessions annexed to the General Agreement on Tariffs and Trade 1994 ('GATT 1994'). Therefore, for the purpose of applying preferential trade arrangements, third countries or groups of third countries with which the Union has such preferential trade arrangements cannot consider Northern Ireland to be part of the Union. In particular, for the purposes of applying the provisions on cumulation, goods originating or processing carried out in Northern Ireland should not be counted as goods originating or processing carried out in the Union.

(3) However, Article 13(1) of the Protocol sets out that any reference to the customs territory of the Union in the Protocol as well as in the provisions of Union law that makes it applicable to and in the United Kingdom in respect of Northern Ireland by the Protocol, applies to the land territory of Northern Ireland. In accordance with Article 5 of the Protocol, Regulation (EU) No 952/2013 and obligations stemming from international agreements concluded by the Union, or by its Member States acting jointly, insofar as they relate to trade in goods between the Union and third countries, apply to and in the United Kingdom in respect of Northern Ireland.

(4) The bilateral arrangements between the Union and the United Kingdom under the Protocol do not give rise to rights and obligations for other third countries.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/2163. (See end of Document for details)*

(5) Under Article 5(2) and Article 56(2)(d) and (e) of Regulation (EU) No 952/2013, Union customs legislation includes preferential tariff measures under agreements that the Union has concluded with, or adopted unilaterally in respect of certain countries or territories outside its customs territory or groups of such countries or territories.

(6) Under Article 64(1) Regulation (EU) No 952/2013, in order to benefit from the preferential tariff measures referred to in Article 56(2)(d) and (e) of that Regulation, goods must comply with the rules on preferential origin referred to in its Article 64(2) to (5). Commission Implementing Regulation (EU) 2015/2447[(3)] lays down the procedural rules, as referred to in Article 64(1), to facilitate the establishment in the Union of the preferential origin of goods.

(7) Given the special customs-related situation of the United Kingdom in respect of Northern Ireland, and in order to apply the preferential tariff measures and to ensure compliance with the relevant rules of origin after the end of the transition period provided for in the Withdrawal Agreement, it is necessary to adopt specific procedural rules to facilitate the establishment in Northern Ireland of the preferential origin of goods.

(8) The measures laid down in this Regulation relate to the preferential proofs of origin to be used for goods imported into the United Kingdom with respect to Northern Ireland, the verification of the preferential origin of such goods and the conditions for granting and suspending preferential tariff measures.

(9) As the transition period provided for in the Withdrawal Agreement ends on 31 December 2020, this Regulation should enter into force as a matter of urgency and apply from 1 January 2021.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation shall apply to goods imported in the United Kingdom in respect of Northern Ireland in application of the preferential tariff measures referred to in Article 56(2)(d) and (e) of Regulation (EU) No 952/2013.

Article 2

Application of preferential rules of origin in the United Kingdom in respect of Northern Ireland

1 For the purpose of applying in the United Kingdom in respect of Northern Ireland the preferential tariff measures referred to in Article 1 of this Regulation, the rules on preferential origin in Article 64(1) of Regulation (EU) No 952/2013 shall apply mutatis mutandis in the United Kingdom in respect of Northern Ireland.

2 References made to the Union or to the Member States in the rules referred to in paragraph 1 shall be understood to include the United Kingdom in respect of Northern Ireland. However, the territory of Northern Ireland shall not be considered part of the Union in the third countries or groups of third countries with which the Union has preferential trade arrangements for the purpose of applying, in respect of exports to the United Kingdom in respect of Northern Ireland, the provisions on cumulation contained in those rules with goods originating or processing carried out in the Union.

Article 3

Obligations related to proofs of origin under preferential trade arrangements adopted unilaterally by the Union

Without prejudice to Article 4 of this Regulation, proofs of origin for products to be imported into the United Kingdom in respect of Northern Ireland shall be issued or made out in third countries or groups of third countries benefiting from the preferential tariff measures referred to in Article 56(2)(e) of Regulation (EU) No 952/2013, under the conditions as established in the rules of origin laid down for the application of those measures for the importation of such products into the Union.

Article 4

Proofs of origin

Proofs of origin issued or made out in third countries or groups of third countries benefiting from the preferential tariff measures referred to in Article 1 shall indicate ‘the United Kingdom in respect of Northern Ireland’ for products to be imported into the United Kingdom in respect of Northern Ireland under the preferential trade arrangements containing those measures.

Article 5

Verification under preferential trade arrangements adopted unilaterally by the Union

The origin of products imported into the United Kingdom in respect of Northern Ireland and benefiting there from the preferential tariff measures referred to in Article 56(2)(e) of Regulation (EU) No 952/2013, shall be verified in the third countries or groups of third countries concerned, on request from the competent customs authorities of the United Kingdom in respect of Northern Ireland, under the conditions as established in the rules of origin laid down for the application of those measures for the importation of such products in the Union.

Article 6

Granting of preferences under preferential trade arrangements

1 Preferential tariff measures as referred to in Article 1 shall not be granted in the United Kingdom in respect of Northern Ireland unless the third countries or groups of third countries benefiting from the preferential tariff measures referred to in Article 1 has undertaken measures to ensure compliance, and inform the Commission accordingly, when exporting into the United Kingdom in respect of Northern Ireland, with: